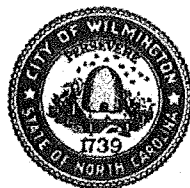


# Ordinance



City Council  
City of Wilmington  
North Carolina

0-2013-16

**Introduced By:** Sterling B. Cheatham, City Manager

**Date:** 3/19/13

**Ordinance Amending the Land Development Code to Add Sections 18-204, Urban Mixed-use District and 18-324, Prescribed and Special Conditions for Uses Within the Urban Mixed-use District and to Amend Section 18-575, Signs permitted in the Central Business District (CBD) and the Main Street Mixed Use (MSMU) District, the Riverfront Mixed Use (RFMU) District, the Mixed Use (MX) District, and the Urban Mixed-use (UMX) District and to add Definitions to Article 15, Section 18-812.**

(LDC-5-1212)

## LEGISLATIVE INTENT/PURPOSE:

WHEREAS, NCGS Section 160A-385 authorizes local governments to amend ordinances regulating land use within their jurisdiction; and

WHEREAS, the amendment set out below is made in accordance with NCGS Section 160A-364 and Article 3, Section 18-117 of the Land Development Code; and

WHEREAS, the amendment set out below is intended to promote the public health, safety, and welfare by amending the Land Development Code to create an urban mixed-use zoning district for identified infill and redevelopment areas located within the 1945 corporate limits.

## THEREFORE, BE IT ORDAINED:

SECTION 1: Chapter 18, Article 5, Sec. 18-204 of the Wilmington City Code is hereby amended to add Sec. 18-204 as follows:

Sec. 18-204. UMX, Urban Mixed-use District.

- (a) Purpose. The urban core of the city, primarily that area within the 1945 corporate limits, contributes to the unique character of the City of Wilmington. The UMX is established to assure an appropriate development pattern is maintained within the 1945 corporate limits through five main objectives: to enhance and preserve existing urban development patterns by encouraging compatible infill and redevelopment; to affect quality design and a variety of built forms of lasting value that result in a pedestrian scale; to provide a mix of housing options; to promote and enhance transit options, particularly those that are

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*Deborah Spicer Sidbury*

pedestrian-oriented, while reducing demand for automobile trips; and to encourage a mix of uses that fosters a sense of community. The district regulations include design elements intended to enhance the urban form, increase neighborhood safety, add flexibility for small, urban lots, and complement the historic built environment. Integrated mixes of uses within individual buildings is encouraged. This district is not intended to be applied to the Central Business District (CBD), nor any of the historic districts.

(b) Uses.

(1) Notwithstanding the provisions of Section 18-173, any use is permitted in the UMX provided it meets all other provisions of this chapter, except for the following:

- a. Adult establishments
- b. Electronic gaming
- c. Garbage collection, private
- d. Gas companies
- e. Manufactured homes sales
- f. Motor freight companies
- g. Movers, van lines, and storage
- h. Nightclubs

(2) Uses permitted under prescribed conditions. The following uses are permitted provided that they meet all requirements of this section, Article 6, and all other applicable requirements established in these regulations.

- a. Auxiliary uses and wares
- b. Communications facilities
- c. Freestanding structured parking decks
- d. Group home supportive, small, medium, large
- e. Group home residential
- f. Industrial uses greater than ten thousand (10,000) square feet, provided they are housed within a building existing at the time of adoption of this ordinance
- g. Utility stations and plants outside public rights-of-way (public and private), including lift stations, substations, pump stations, etc.

(3) Permitted by special use permit. The following uses are permitted subject to the issuance of a special use permit and provided that they meet all requirements of this section, Article 6, and all other applicable requirements established in these regulations.

- a. Automobile renting and leasing
- b. Automotive services and towing service
- c. Communication facilities, including radio and television stations, cellular telephone facilities, towers, etc.

- d. Contractor equipment or supply dealers and service
- i. Contractor storage yard
- e. Dormitories, private
- f. Drive-through services
- g. Group day facility
- h. Industrial and manufacturing uses greater than ten thousand (10,000) square feet.
- i. Motor vehicle dealers, including automobiles, boat dealers, motorcycles, recreational vehicles, and utility trailers
- j. Tire dealers and service

(c) General regulations. The established urban development pattern within the 1945 corporate limits requires that flexible development standards be established.

(1) Maximum building height: Along arterial streets, building height shall not exceed four (4) stories or forty-five (45) feet. Building height along arterial streets may be increased to seventy-five (75) feet with the issuance of a special use permit. Along residential and collector streets, building height shall not exceed thirty-five (35) feet or two (2) stories. Roadway classifications are according to the Wilmington Metropolitan Planning Organization Functional Classification Map.

(2) Building setbacks:

- a. No setbacks are required except where abutting a single-family residential district, excluding street and alley rights-of-way. When abutting a single-family residential zoning district, that side of the building abutting the single family zoning district, shall be set back as follows:

Front: At least five (5) feet or the average setback of existing buildings within the block or block face, but not more than ten (10) feet

Side: At least five (5) feet

Rear: At least five (5) feet

- b. In no case shall front setbacks exceed ten (10) feet.

(3) Density:

	<i>Maximum Dwelling Units Per Acre</i>
Single family	15

Multi-family	25
Integrated Mixed-use building	None

- (4) Utility and equipment screening: HVAC equipment, air conditioning window units, and other electrical equipment, and fire escapes shall not be located on facades with street frontage. All such equipment shall be placed in the interior yards or inset into the roof pitch, or behind a parapet wall in the case of a flat roof, of the building and screened from the right-of-way. Through-wall mechanical units are permitted on any facade if they are incorporated into the design of the building, flush with the facade on which they are located, concealed by a vent cover and have an internal drip system for condensation. Utility meters, transformers and fixed trash disposal receptacles that cannot be located out of sight shall be screened from the public right-of-way by plantings or opaque fencing. The Technical Review Committee may approve alternations to these standards, if necessary.
- (5) Site lighting. All site lighting shall be located, angled, shielded, and/or limited in intensity so as to cast no direct light upon adjacent properties, shall minimize off-site backlighting glare, and up-lighting. Light posts shall be no taller than twelve (12) feet.
- (6) Parking and driveway requirements:
- There are no minimum parking requirements. Parking shall not exceed the maximum parking requirements established for any use in Article 9 of this Chapter.
  - Bicycle parking shall be provided as follows. Where two (2) standards are listed, the greater number applies.

<i>Use</i>	<i>Minimum Bike Spaces Required</i>
Schools	5 spaces per classroom
Parks and recreation areas	10 spaces
Religious Institutions	2 spaces or 1 per 5,000 square feet of gross floor area
Multi-family residential	1 space per dwelling unit
Group home	1 space per resident

Office uses	2 spaces or 1 per 5,000 sq ft of gross floor area
Commercial/retail uses	5 spaces or 1 per 1,000 square feet of gross floor area

- c. Surface parking shall be located to the side or rear of buildings or in the interior of a block and shall be prohibited in front of buildings. Surface parking shall not be located along rights-of-way except for alleys.
  - d. Surface parking lots visible from the public right-of-way shall be screened by permanent walls, shrubbery or hedges at least three (3) feet in height. If hedges or shrubbery are used, they shall be at three (3) feet in height at the time of planting and shall be maintained at three (3) to five (5) feet in height at all times.
  - e. Parking shall be accessed via alleyways wherever possible.
  - f. The design of all above-grade parking structures shall relate to the context of the area. Exterior walls of parking structures shall be designed with materials, colors, and architectural articulation in a manner that provides a visual compatibility with adjacent buildings and environment.
  - g. Pervious pavement materials, vegetated bio-infiltration parking lot islands, or infiltration systems shall be used to minimize pollutant run-off from surface parking areas to the extent that soil permeability, depth to groundwater, or site constraints allow.
  - h. Driveway and parking lot design shall be consistent with an urban form and may be exempt from the requirements of the Technical Standards and Specifications Manual, as approved by the Technical Review Committee.
- (7) General site design: Each of the following components shall be included in UMX developments.
- a. Multi-modal transportation opportunities. Public transit, walking, bicycling, and/or water-oriented transit and the facilities necessary for such uses.
    - 1. Pedestrian circulation shall be clearly defined with paving materials and/or landscaping and shall connect all uses. Sidewalks and crosswalks shall be provided within new developments as necessary.
    - 2. Bicycle and/or pedestrian connectivity to adjacent or nearby developments is required.
    - 3. Sidewalks. Where no sidewalks currently exist, sidewalks shall be installed within the right-of-way between the property line and the back of the curb. Sidewalk width shall be a minimum of twelve (12) feet along arterial streets and eight (8) feet along

residential/collector streets and may be reduced on internal private streets with Technical Review Committee approval. Sidewalks may be limited to a single side of rights-of-way or private streets, or sidewalk width may be reduced, when right-of-way or private street abuts streams, ponds, or wetlands or when contextual design constraints dictate, as determined by the Technical Review Committee.

- b. Street trees. Street tree plantings in below-grade planters shall be included in the public right-of-way at the rate of one (1) tree per thirty (30) feet of frontage. If the City Manager determines there is no plaza or other space available for tree plantings in the right-of-way, or determines that the planting is problematic for the site, a payment-in-lieu of tree plantings, equal to the cost for the required trees, including materials and installation, shall be paid by the developer into the City of Wilmington tree improvement fund. All plans for street tree plantings must be approved by the City Manager and must be planted according to Sec. 18-448 of this chapter, unless otherwise noted in this section. Tree species shall comply with Sec. 18-196(f)(3) of this chapter.
- c. Buffers and streetyards. All development within the UMX district may be exempted from required buffers and streetyard requirements, as approved by the Technical Review Committee.
- d. Trash containment screening. All developments within the UMX are exempt from Sec. 18-504 of this chapter and are subject to the following screening requirements:
  - 1. Trash containment areas shall be located within a building where possible.
  - 2. If trash containment, including areas for holding recycling, cannot be accommodated within a building, it shall be placed on the rear or side of the building and shall be completely enclosed and screened from view of public rights-of-way with an opaque fence or wall and/or plant materials, as approved by the Technical Review Committee. The enclosure shall be at least one (1) foot taller than the highest point of the trash receptacle. Chain link and exposed concrete blocks are prohibited.
- e. Encroachment agreements. An encroachment agreement shall be required for any projection into the right-of-way, such as balconies and door swings. The encroachment agreement must be approved prior to construction release or issuance of a building permit. Application for any encroachment must be made to the City Engineer for review and the format of the encroachment agreement shall be determined and approved

by the City Attorney. Official approval of such agreement shall be by resolution of the City Council. De minimus encroachments including gutters, fabric awnings, door swings, architectural elements less than twelve (12) inches in depth, signs, and sub-grade structural elements are approved or denied by the City Engineer.

- f. Fences and walls. Open wire fencing, including chain link, hurricane fencing, and barbed wire, is prohibited. Within front yards, fence heights may not exceed four (4) feet.
- (d) Building design. All new construction in the UMX shall comply with the following design standards, where applicable.
  - (1) Building entrances. Primary entrances should be clearly distinctive from other entrances. Primary building entrances shall be oriented toward public sidewalks along primary street frontages.
  - (2) Massing and scale. Large expanses of flat, unadorned walls are prohibited. Facades shall incorporate architectural details, particularly at the pedestrian level. Building facades along rights-of-way shall incorporate periodic transitions across the facade. Building facades along rights-of-way exceeding thirty (30) feet in width shall be divided into distinct areas utilizing methods including, but not limited to, facade offsets, pilasters, change in materials, or fenestration (window arrangement). Transitions shall be no further apart than two-thirds (2/3) of the height of the facade.
  - (3) Street-level facades. New buildings shall front onto public sidewalks to reinforce pedestrian activity along public streets and pedestrian ways. Exterior burglar bars, fixed "riot shutters," or similar security devices shall not be visible from the public right-of-way.
  - (4) Exterior building materials. Exterior building materials for all new nonresidential or multifamily structures in the UMX district shall be similar to the materials already being used in the neighborhood, or, if dissimilar materials are used, characteristics such as scale, proportion, form, architectural detailing, and texture shall be used to ensure that enough similarity exists for the building to relate to the surrounding block. Quality finish materials shall be utilized. The following materials shall be prohibited on facades visible from the public right-of-way:
    - a. Structural metal panels
    - b. Unparged or non-architectural, non-decorative concrete block
  - (5) Alterations to historic facades. Alterations or additions to buildings and/or structures that are designated as contributing resources to the Wilmington National Register Historic District or are more than fifty (50) years old, may

apply the Secretary of the Interior's Standards for Rehabilitation. These standards are included in the Wilmington Historic District Design Guidelines.

Secs. 18-205--18-210. Reserved

SECTION 2: Chapter 18, Article 6, Sec. 18-324 of the Wilmington City Code is hereby amended to add Sec. 18-324 as follows:

Sec. 18-324. Prescribed and special conditions for uses within the Urban Mixed-use District.

In addition to any other restrictions set forth in this chapter, the following uses in the UMX shall be subject to the following conditions:

- (a) Freestanding structured parking decks.
  - (1) Freestanding structured parking decks shall have no blank walls and shall be designed as to limit the visibility of interior ramps and outside glare from interior lighting.
  - (2) Facades facing the right-of-way shall be designed in a way that is compatible with the overall design of the development.
  - (3) Commercial, retail, and/or office uses are required for a minimum depth of twenty (20) feet on the ground floor of all facades facing the right-of-way.
  - (4) Vehicular entrances shall be located on non-primary streets, where possible.
  - (5) Ventilation from parking decks shall be directed away from residential zoning districts.
- (b) Motor vehicle dealers, including automobiles, boat dealers, motorcycles, recreational vehicles, and utility trailers.
  - (1) Surface parking lots shall be located to the interior of the block and/or behind buildings fronting rights-of-way so as to not interrupt the continuity of the block face where possible.
  - (2) All surface parking, include storage and display of inventory, shall be subject to the parking lot screening requirements of the UMX district.
  - (3) Outdoor speakers shall not be permitted within one hundred (100) feet of any residential zoning district.



- (c) Building height exceeding by-right heights. Building heights along major arterials may be increased to seventy-five (75) feet provided that the building shall be setback at least twenty (20) feet from the side/rear property line(s) where adjacent to residentially-zoned parcels.
- (d) Automobile renting and leasing facilities, services and towing services.
  - (1) No outdoor work shall be performed.
  - (2) Surface parking lots shall be located to the interior of the block and/or behind buildings fronting rights-of-way so as to not interrupt the continuity of the block face where possible.
  - (3) Surface parking lots shall be screened from public streets by permanent walls, shrubbery or hedges at least three (3) feet in height, not to exceed five (5) feet in height.
  - (4) Surface parking shall be accessed via public or private alleyways where possible.
- (e) Industrial and manufacturing uses greater than ten thousand (10,000) square feet.
  - a. Uses that produce excessive noise, odor, smoke, dust, airborne debris, and/or other impacts that may be detrimental to the health, safety, and welfare of the surrounding uses are not permitted.
  - b. The following uses shall be prohibited:
    - i. Airport services
    - ii. Junk and scrap yard
    - iii. Manufacturing of: chemicals and allied products, including gases and glue; creosote; fats & oils; ordnance; paper and pulp products; petroleum; primary metals; tires; tobacco products
    - iv. Metal coating, engraving and allied services
    - v. Slaughterhouses and meat products
- (f) Contractor equipment or supply dealers and service and contractor storage yard.
  - a. Surface parking lots and storage shall be located to the interior of the block and/or behind buildings fronting rights-of-way so as not to interrupt the continuity of the block face, where possible.
  - b. All surge parking shall be subject to the parking lot screening requirements of the UMX district.
  - c. Inventory and equipment shall be screened from view on all sides by an opaque wood, brick, or decorative block fence and vegetation.

(g) Drive-through services.

- (1) Drive-through speakers shall be located in the side or rear yards.
- (2) Drive-through services shall be set back a minimum of ten (10) feet from the front plane of all street-facing facades.
- (3) Driveways shall be one-way where possible.
- (4) Exterior speakers shall be designed so as to minimize sound trespass to adjacent properties, including placement/location of speakers and windows/door, and the use of vegetation.
- (5) Drive-through services shall not be located within one hundred (100) feet of any residential zoning district.

Sec. 18-325 – 18-339. Reserved.

SECTION 3: Chapter 18, Article 12, Sec. 18-575 section title and (a) of the Wilmington City Code is hereby amended to read as follows:

Sec. 18-575. Signs permitted in the Central Business District (CBD) and the Main Street Mixed Use (MSMU) District, the Riverfront Mixed Use (RFMU) District, the Mixed Use (MX) District, and the Urban Mixed-use (UMX) District.

The following signs are permitted in the MSMU, RFMU, MX, and UMX districts and in that portion of the CBD that is outside of the CBD-HDO, except sandwich board signs which are allowed in the CBD-HDO:

- (a) External illumination, if used, shall not be blinking, fluctuating or moving. Light rays shall shine only upon the property within the premises and shall not spill over the property lines in any direction, except by indirect reflection. Internal illumination is permitted; however, electronic changeable copy signs are prohibited in the MSMU, RFMU, MX, and UMX districts.

Within the CBD, electronic changeable copy signs are permitted on property that meets the following criteria:

- i. The property is north of Red Cross Street; and

- ii. The property is developed with either a parking deck with at least three hundred (300) parking spaces or a special event venue that includes a seating capacity of one thousand five hundred (1,500) or more or an exhibition space of thirty thousand (30,000) square feet or more. This provision shall not apply to buildings used primarily for classroom or laboratory uses.
- iii. Electronic changeable copy signs must comply with the following:
  - a. A premises may have only one (1) sign containing electronic changeable copy.
  - b. Such a sign shall be freestanding only.
  - c. Such signs shall have automatic dimming controls, either by photocell (hardwired) or via software settings, in order to bring the lighting level at night.
  - d. Signs may not exceed a maximum luminance level of seven hundred fifty (750)  $\text{cd/m}^2$  or Nits, regardless of the method of illumination. Prior to the issuance of a sign permit, the applicant shall provide written evidence that the light intensity has been factory pre-set not to exceed seven hundred fifty (750)  $\text{cd/m}^2$  and that the intensity level is protected from end-user manipulation by password-protected software or other method determined appropriate by the City Manager.
  - e. The electronic portion of the sign shall be limited to a black background with light colored numerals and letters only.

SECTION 4: Chapter 18, Article 12, Sec. 18-575 of the Wilmington City Code is hereby amended to add the following:

- (h) Outdoor advertising signs are prohibited.

SECTION 5. Chapter 18, Article 15, Sec. 18-812 of the Wilmington City Code is hereby amended to add the following, in alphabetical order:

Contractor equipment or supply dealers and service – An establishment primarily engaged in furnishing equipment, materials or services regularly used in the conduct of building trades or craft, land development, and construction, including but not limited to equipment sales or rental, and which typically includes outdoor storage and/or display of such equipment.

Garbage collection, private – An establishment primarily engaged in the collection and disposal of solid waste, including junkyards, dumps, facilities processing waste materials and storage of waste disposal vehicles.

Gas companies - A business primarily engaged in the wholesale supply of refined gas products, including biodiesel, ethanol, hydrogen, petroleum, kerosene, methanol, natural gas, oil, propane,

and other similar stable fuels. This definition does/does not include businesses engaged in the refinement of crude oil.

Manufactured homes sales – A business primarily engaged in the display and sale of manufactured housing, as defined in this Chapter. This use does not include sales offices for manufactured homes with no display of inventory on site.

Motor freight companies – An establishment primarily engaged in the on-road transport of goods, merchandise, substances, materials, and commodities of any kind from one location to another. This includes terminals and offices associated with the logistical planning of trucking operations.

Movers, van lines, and storage – a business primarily engaged in the rental of truck, trailer or cargo vans and/or furnishing boxes, hitches and moving supplies with or without on-site storage facilities. This definition does not include warehousing or mini-warehousing uses.

SECTION 6: That any person violating the provisions of this ordinance shall be subject to the penalties set forth in Article XIV, Section 18-52 of the Land Development Code.

SECTION 7: That all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed to the extent of such conflict.

SECTION 8: That if any section, subsection, paragraph, sentence, clause, phrase or portion of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed severable and such holding shall not affect the validity of the remaining portions hereof.

SECTION 9: That this ordinance shall be effective immediately upon its adoption.

A handwritten signature in black ink, appearing to read "Bill Saffo", written over a horizontal line.

Bill Saffo, Mayor

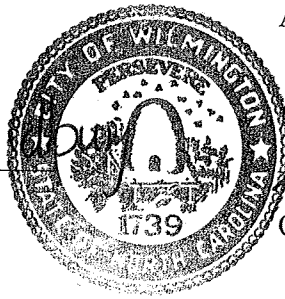
Adopted at a regular, meeting  
on March 19,, 2013.

Attest:

Approved as to Form:

*Philippe Spier*

City Clerk



*Robert E. Lee*

City Attorney